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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,002	02/20/2004	Arja Miettinen-Oinonen	1716.051000A	5790
26111 7590 04/16/2007 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER RAO, MANJUNATH N	
			ART UNIT	PAPER NUMBER
			1652	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/782,002	Applicant(s) MIETTINEN-OINONEN ET AL.	
	Examiner Manjunath N. Rao, Ph.D.	Art Unit 1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-122 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32 and 34-122 is/are rejected.
- 7) ☒ Claim(s) 31 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3-12-04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claims 31-122 are currently pending and are present for examination.

Applicants' amendments and arguments filed on 1-24-07, have been fully considered and are deemed to be persuasive to overcome the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

Specification

Examiner notes that applicants have not updated the relationship of the instant application to its parent application that has matured in to a US patent. Examiner urges applicants to amend said information by providing the US patent number in response to this Office action.

Drawings

This application has been filed with drawings that are objected to by the Examiner. The sequences depicted in figures 19, 21, 23, 27 are not fully identified by their respective SEQ ID NO. (see below under Sequence compliance).

Sequence Compliance

Applicant is required to comply with the sequence rules by inserting the sequence identification numbers of all sequences recited within the claims and/or specification. It is particularly noted that applicant fails to provide the appropriate SEQ ID NO to the amino acid sequences depicted in figures 19, 21, 23, 27. See particularly 37 CFR 1.821(d).

Claim Objections

Claims 31-122 are objected to because of the following informalities: Claims 31-122 recite (either directly or indirectly) that the claimed percent identity of the amino acid sequence is that of the amino acid sequence set forth in figures 23 A-C and SEQ ID NO:35 or amino acids 23-452 of the amino acid sequence set forth in figures 23 A-C and SEQ ID NO:35. However, the amino acid sequence depicted in figures 23 A-C are not numbered and they do not have any SEQ ID NO allocated to them. Examiner has no way of making sure that the sequence depicted in figure 23 A-C is indeed the same as depicted in SEQ ID NO:35. Appropriate correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 32, 34, 35 and claims 36-122 which depend from claim 35 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 32, 34 and 35 are now drawn to a polypeptide having cellulose activity and an amino acid sequence that is at least 95% identical to SEQ ID NO:35 or the amino acid sequences depicted in figures 23A-C or amino acid sequence that is at least 95% identical to amino acids 23-452 of SEQ ID NO:35 or the sequence depicted in figures 23 A-C or encoded by the polynucleotide sequence depicted in figures 23 A-C or the polynucleotide sequence SEQ ID NO:34.

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However, a perusal of the specification indicates that applicants have no support for either amino acid sequence or the polynucleotide sequence that is “95% identical” to SEQ ID NO:35 or the amino acid sequences depicted in figures 23A-C or amino acid sequence that is at least 95% identical to amino acids 23-452 of SEQ ID NO:35 or the sequence depicted in figures 23 A-C or encoded by the polynucleotide sequence depicted in figures 23 A-C or the polynucleotide sequence SEQ ID NO:34 which now constitutes a “new matter”. Therefore 32, 34, 35 and claims 36-122 which depend from claim 35 are rejected for introducing “new matter” into the claims. Applicants in their remark state that no new matter has been introduced by the above amendment but provide no page number or line number where support for the amendment can be found. However, a perusal of the specification by the Examiner did not provide any support for the above amendment. Examiner did find support for “% homology” language in pages 19 and 20 of the specification. However, said language did not include the language of “95% homology or identity”. Support found on page 21 was limited to the oligonucleotides that hybridize to the polynucleotide but not to the claimed polypeptide *per se*. Therefore the above rejection is maintained.

Conclusion

None of the claims are allowable.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.



Manjunath N. Rao, Ph.D.
Primary Examiner
Art Unit 1652

April 10, 2007